

CHAPTER 3

RULES OF PROCEDURE FOR STATE AGENCY HEARINGS ON CONTESTED CASES

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3-1 RULES OF PROCEDURE FOR HEARING CONTESTED CASES

The rules of procedure for hearing contested cases are found in the Rules of the Secretary of State, Chapter 1360-4-1. A copy will be furnished upon request.

3-2 STATE AGENCY HEARINGS

The state agency will provide an opportunity for a hearing to:

- (1) Any area agency when the state agency proposes to:
 - (a) Disapprove the area plan or plan amendment submitted by the area agency; or,
 - (b) Withdraw the area agency's designation.
- (2) Any applicant for designation as a planning and service area whose application is denied;
- (3) Any nutrition project which the area agency proposes to defund; and,

- (4) Any service provider whose application to provide services under an area plan is denied or whose contract is terminated or not renewed except as provided in 45 CFR, Part 74, Subpart M of the regulations.

If any agency or organization wants a hearing, it must file a written request for a hearing with the state agency within 30 days following receipt of the notice of the adverse action. Upon receipt of the request, the state agency will notify the organization of the date, time, and location of the hearing. The state agency will complete the hearing within 120 days of the date the request for hearing was received by the state agency. The state agency will issue the hearing decision within 60 days after the hearing is completed.

The state agency hearing procedures for agencies and organizations will include:

- (1) Timely written notice of the reasons for the agency action that is being appealed and the evidence on which the action was based;
- (2) An opportunity to review any pertinent evidence on which the agency action was based;
- (3) An opportunity to appear in person before a hearing officer and/or the Board of the Commission to refute the basis for the decision in accordance with Rules and Regulations, Chapter 1360-4-1;

- (4) An opportunity to be represented by counsel or other representative;
 - (5) An opportunity to present witnesses and documentary evidence;
 - (6) An opportunity to cross-examine witnesses; and,
 - (7) A written decision which sets forth the reasons for the decision and the evidence on which the decision is based.
- The state agency may terminate formal hearing procedures at any point if the state agency and agency or organization that requested the hearing negotiate a written agreement that resolves the issue(s) which led to the hearing.

3-3 DISAPPROVAL OF AN AREA PLAN/AND OR WITHDRAWAL OF AREA AGENCY DESIGNATION

The state agency will withdraw the area agency designation whenever the state agency, after reasonable notice and opportunity for a hearing, finds that:

- (1) The area agency does not meet the requirements set out in Section 0030-5-4.
- (2) The plan or plan amendment is not approved; or,
- (3) There is substantial failure in the provisions or administration of an approved area plan to comply with any provision of Section 0030-5-4.

If the state agency withdraws an area agency's designation, it will:

- (1) Notify the Commissioner in writing of its action;
- (2) Provide a plan for the continuity of services in the affected planning and service area; and,
- (3) Designate a new area agency in the planning and service area in a timely manner.

If necessary to ensure continuity of services in a planning and service area, the state agency may, for a period of up to 180 days after its final decision to withdraw designation of an area agency:

- (1) Perform the responsibilities of the area agency; or,
- (2) Assign the responsibilities of the area agency to another agency in the planning and service area.

The Commissioner may extend for a period of up to an additional 180 days the limit in the previous paragraph of this section if the state agency:

- (1) Requests an extension; and,
- (2) Demonstrates to the satisfaction of the Commissioner a need for the extension.

3-4 TIME FRAME FOR AREA AGENCY DEDESIGNATION. (RESERVED)